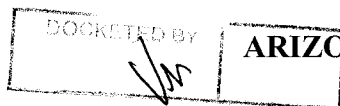


AUG 18 2000

**STAFF REPORT
UTILITIES DIVISION**



ARIZONA CORPORATION COMMISSION

2000 AUG 18 P 3:27

**Application For a Certificate of Convenience and Necessity and For
Determination That Services of The Company are Competitive**

Company: Lyxom, Inc.
Docket No.: T-03845A-00-0141

On March 2, 2000, the Applicant filed an application for a Certificate of Convenience and Necessity (CC&N) to resell telecommunications services within the State of Arizona.

Staff's review of this application addresses the overall fitness of the Applicant to receive a CC&N to provide competitive resold intrastate toll telecommunications services. Staff's review considers the Applicant's integrity, technical and financial capabilities, and whether the Applicant's proposed rates will be competitive, just and reasonable.

REVIEW OF COMPANY AND TELECOMMUNICATION SERVICE INFORMATION

Staff makes the following finding, indicated by an "X," regarding information filed by the Applicant:

- X The necessary information has been filed to process this application. In addition, the Applicant has published legal notice of the Application in all counties where services will be provided, and has received authority to transact business in the State of Arizona.

- The information listed below was omitted and must be filed with the Commission. Staff will not recommend that this application be granted until the information is filed. Failure to file the omitted information within 30 days from the date of this Staff Report will result in Staff recommending dismissal of this application without prejudice to filing a new application. If the application is dismissed, the Applicant may not provide service until such time as a new application is filed and approved by the Commission.

REVIEW OF TECHNICAL INFORMATION

The Applicant has demonstrated sufficient technical capability to provide the proposed services for the following reasons, which are marked:

- ☐ The Applicant is currently providing service in Arizona.
- ☐ The Applicant is currently providing service in other states.
- ☒ The Applicant is a switchless reseller.
- ☐ The Applicant has provided a system diagram that depicts its network that is used for completing calls within Arizona. Local exchange carrier facilities are used to originate and terminate calls carried on the Applicant's long distance network. The Applicant does not currently own any long distance facilities; the facilities that are used to complete calls are obtained from a facilities-based carrier operating in the state.
- ☒ In the event the Applicant's network fails, end users can access other long distance service providers.

REVIEW OF FINANCIAL INFORMATION

The Applicant has provided its financial statements as of October 21, 1999. These financial statements list assets of \$186,294, positive shareholders' equity of \$175,000, and liabilities of \$11,294. Based upon this information, Staff believes the Applicant lacks the financial wherewithal to be allowed to charge customers any prepayments, advances or deposits without either establishing an escrow account or posting a surety bond to cover such customer prepayments, advances or deposits.

The Company stated in its Application that it does not charge its customers for any prepayments, advances or deposits. If at some future date, the Applicant wants to charge customers any prepayments, advances or deposits, it must file information with the Commission that demonstrates the Applicant's financial viability. Upon receipt of such filing, Staff will review the information and the Commission will make a determination concerning the Applicant's financial viability and whether customer prepayments, advances or deposits should be allowed.

If this Applicant experiences financial difficulty, there should be minimal impact to the customers of this Applicant because there are many other companies that provide resold telecommunications service or the customers may choose a facilities-based provider. If the customer wants service from a different provider immediately, that customer is able to dial a 101XXXX access code. In the longer term, the customer may permanently switch to another company.

COMPETITIVE SERVICES RATES AND CHARGES

Competitive Services

The Applicant is a reseller that sells services that it purchases from other telecommunications companies. It is not a monopoly provider of service nor does it control a significant portion of the telecommunications market. The Applicant cannot adversely affect the intrastate toll market by restricting output or raising market prices. In addition, those companies from whom the Applicant buys its bulk services are technically and financially capable of providing alternative services at comparable rates, terms and conditions. Staff has concluded that the Applicant has no market power and that the reasonableness of its rates will be evaluated in a market with numerous competitors. In light of the competitive market in which the Applicant will be providing its services, Staff believes that the Applicant's proposed tariffs for its competitive services will be just and reasonable.

Effective Rates

The Commission provides pricing flexibility by allowing competitive telecommunication service companies to price their services at or below the maximum rates contained in their tariffs as long as the pricing of those services complies with A.A.C. R14-2-1109. The Commission's rules require the Applicant to file a tariff for each competitive service that states the maximum rate as well as the effective (actual) price that will be charged for the service. Because Staff believes that the market in which these services will be offered is competitive, Staff recommends that the Applicant's competitive services be priced at the rates proposed by the Applicant in its most recently filed tariffs. In the event that the Applicant states only one rate in its tariff for a competitive service, Staff recommends that the rate stated be the effective (actual) price to be charged for the service as well as the service's maximum rate. Any changes to the Applicant's effective price for a service must comply with A.A.C. R14-2-1109.

Minimum and Maximum Rates

A.A.C. R14-2-1109(A) provides that minimum rates for the Applicant's competitive services must not be below the Company's total service long run incremental costs of providing the services. The Company's maximum rates should be the maximum rates proposed by the Company in its most recent tariffs on file with the Commission. Any future changes to the maximum rates in the Company's tariffs must comply with A.A.C. R14-2-1110.

STAFF RECOMMENDATIONS

Staff has reviewed the Applicant's application for a Certificate of Convenience and Necessity to offer intrastate toll services as a reseller and its Petition to classify its intrastate toll services as competitive. Based on its evaluation of the Applicant's technical and financial capabilities to resell intrastate toll services, Staff makes the following recommendations:

The Applicant should be ordered to:

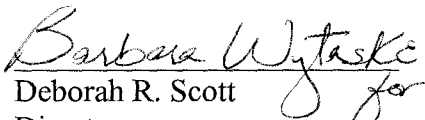
1. Comply with all Commission rules, orders, and other requirements relevant to the provision of intrastate telecommunications service;
2. Maintain its accounts and records as required by the Commission;
3. File with the Commission all financial and other reports that the Commission may require, and in a form and at such times as the Commission may designate;
4. Maintain on file with the Commission all current tariffs and rates, and any service standards that the Commission may require;
5. Comply with the Commission's rules and modify its tariffs to conform to these rules if it is determined that there is a conflict between the Company's tariffs and the Commission's rules;
6. Cooperate with Commission investigations of customer complaints;
7. Participate in and contribute to a universal service fund, as required by the Commission;
8. File its tariffs within 30 days of an Order in this matter, and in accordance with the Decision; and to
9. Notify the Commission immediately upon changes to the Applicant's address or telephone number.

Staff further recommends the following:

- If at some future date, the Applicant wants to charge customers any prepayments, advances or deposits, it must file information with the Commission that demonstrates the Applicant's financial viability. Upon receipt of such filing, Staff will review the information and the Commission will make a determination concerning the Applicant's financial viability and whether customer prepayments, advances or deposits should be allowed.
- The Applicant's intrastate toll service offerings should be classified as competitive pursuant to A.A.C. R14-2-1108.

- The Applicant's competitive services should be priced at the rates proposed by the Applicant in its most recently filed tariffs. The maximum rates for these services should be the maximum rates proposed by the Applicant in its tariffs. The minimum rates for the Applicant's competitive services should be the Applicant's long run incremental costs of providing those services as set forth in A.A.C. R14-2-1109.
- In the event that the Applicant states only one rate in its proposed tariff for a competitive service, the rate stated should be the effective (actual) price to be charged for the service as well as the service's maximum rate.

This application may be approved without a hearing pursuant to A.R.S. § 40-282.


Deborah R. Scott
Director
Utilities Division

8-11-00
Date

Originator: Marta Kalleberg

Date: August 2, 2000